

EX PARTE OR LATE FILED

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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554  
FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

In the Matter of )

Amendment of Part 90 of the )  
Commission's Rules to Facilitate )  
Future Development of SMR Systems )  
in the 800 MHz Frequency Band )

PR Docket No. 93-144 ✓

and

Implementation of Section 309(j) )  
of the Communications Act - )  
Competitive Bidding )  
800 MHz SMR )

PP Docket No. 93-253

To: The Commission

**EX PARTE FILING**

XW Communications, Inc., B & C Communications, Inc., Mobile Communications Service of Miami, Inc. and Nielson Communications, Inc. (collectively the "SMR Operators 3") hereby respectfully file this Ex Parte communication in response to the invitation of the Federal Communications Commission in the above-captioned proceeding.<sup>1</sup>

**I. BACKGROUND**

At a meeting held at the FCC on September 18, 1995, the Wireless Telecommunications Bureau presented to representatives of the SMR industry the Commission's current vision of a Report and Order and Further Notice of Proposed Rule Making in the 800 MHz licensing proceeding. At that time, the Commission invited further

<sup>1</sup>Public Notice Report No. WT 95-23, DA 95-1965, released September 12, 1995.

industry Comment by September 29, 1995 on the current version of the proposed rules.

The SMR Operators 3 are the licensees and/or managers of 800 MHz SMR facilities in various parts of the country. The SMR Operators 3 have participated in earlier stages of this proceeding. The SMR Operators 3 have attempted to work diligently through the Commission's processes to reach a satisfactory outcome in this proceeding.

## II. COMMENTS

The SMR Operators 3 are concerned that the Commission's proposed plan virtually ignores the many comments of independent SMR operators over the past year. In fact, the only changes to the Commission's original plan is to use BEAs instead of MTAs (which is an appropriate change) and to permit mandatory relocation (which the Commission initially declined to do).

It continues to be the opinion of the SMR Operators 3 that the Commission is without authority to auction this spectrum. Further, it is inconceivable that the Commission wants to relocate long time business operators to auction the spectrum to their **competitors**. However, in recognition of the Commission's representation that these issues are not open to discussion, the SMR Operators 3 continue to try to find means to reach agreement on the best relocation plan possible, while preserving their rights to continue their opposition to the Commission's core decisions on auctions and mandatory relocation.

In this light, the SMR Operators 3 have reviewed the draft Ex Parte Comments of PCIA. The SMR Operators 3 agree that PCIA's views of incumbent rights, cost recovery and opportunities for independent SMR operators must be included in any plan adopted by the Commission.


III. CONCLUSION

For the foregoing reasons, XW Communications, Inc. urges the Commission to modify its proposed rules for 800 MHz licensing consistent with the views expressed herein.

Respectfully submitted,

XW Communications, Inc.

By: \_\_\_\_\_

  
John D. Mitchell  
801 W Williamson Avenue  
Fullerton, CA 92632

Date: October 3, 1995

III. CONCLUSION

For the foregoing reasons, B & C Communications, Inc. urges the Commission to modify its proposed rules for 800 MHz licensing consistent with the views expressed herein.

Respectfully submitted,

B & C Communications, Inc.

By:

Thomas A. Harb

Thomas Harb  
President

1330 Stimmel Road  
Columbus, Ohio 43223  
(614) 276-5552

Date: October 3, 1995

III. CONCLUSION

For the foregoing reasons, we urge the Commission to modify its proposed rules for 800 MHz licensing consistent with the views expressed herein.

Respectfully submitted,

By:

A handwritten signature in dark ink, appearing to read "J. L. O'Connell", is written over a horizontal line.

**MOBILE COMMUNICATIONS SERVICE  
OF MIAMI, INC.  
8193 N.W. 74th Avenue  
Miami, Florida 33166**

Date: October 2, 1995

### III. CONCLUSION

For the foregoing reasons, we urge the Commission to modify its proposed rules for 800 MHz licensing consistent with the views expressed herein.

Respectfully submitted,

By: Richard J. Nielson  
Richard J. Nielson  
Nielson Communications, Inc.  
23 E. Oak St.  
Sturgeon Bay, WI 54235  
414-743-0190

Date: October 3, 1995